

U.S. BANKRUPTCY COURT  
WESTERN DISTRICT OF VIRGINIA  
Lynchburg (Charlottesville) Division

IN RE: Douglas Wade Lilly, Jr.  
Kira Brown Lilly  
Debtor

Chapter 13  
Case No. 14-60581

DOUGLAS WADE LILLY, JR.

Plaintiff,

v.

AP No. 14-06022

SPERRY MARINE FEDERAL CREDIT UNION  
ATTN Joe Nasevich, Chair of Board of Directors  
P.O. Box 7766  
Charlottesville, VA 22906

ALSO SERVE:  
Robin Elliott, Trustee  
PO Box 7766  
Charlottesville, VA 22906

Defendant.

**ORDER AVOIDING LIEN**

1. At Charlottesville, in said District, this 12<sup>th</sup> day of May, 2014.
2. This day appeared the Debtors, by counsel, upon motion, pursuant to Bankruptcy Code Sections 506 and 1322, to avoid a certain lien held by Defendant, secured creditor, on property of Debtor Douglas Lilly described as his real estate, located at 7043 Albevanna Spring Road, Scottsville, Albemarle County, Virginia, TMP 12300-00-00-23C0 (hereinafter "the Residence"), and legally described as follows:

All that certain tract or parcel of land, with improvements thereon, lying and being situate in the Scottsville Magisterial District of Albemarle County, Virginia, shown as containing 1.15 acres, more or less, on plat of Old Albemarle Surveying, LLC, dated November 24, 2003, which plat is recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 2655, Page 219; and being the same property conveyed to the Grantor by deed recorded in said Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 2655, Page 215.
3. It appearing to the Court that:

A. The Debtors filed this proceeding under Chapter 13 of the Bankruptcy Code on March 28, 2014.

B. The Debtors listed Defendant as a secured creditor by reason of its having second and third deeds of trust on the residence, held by Defendant, with a combined approximate payoff of \$19,999.82, recorded on August 14, 2007 under Instrument No. 2007-00013046, and on November 29, 2007 under Instrument No. 2007-00018115 in the Albemarle County Circuit Court Clerk's Office.

C. The Debtors have a first deed of trust on the residence, held by Chase Manhattan Mortgage, successor in interest to MERS/C & F Mortgage Corporation, with an approximate payoff of \$118,999.00, recorded on September 7, 2005 as Instrument No. 2005-00016702 in the Albemarle County Circuit Court Clerk's Office.

D. The value of the Residence is \$102,400.00.

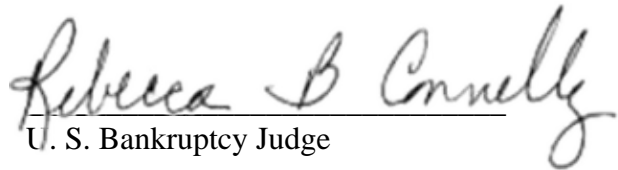
E. Because the amount of the first lien on said real estate exceeds the value of the Residence, there is no equity to which the second and third liens can attach. The Plan has therefore proposed that the second and third liens be avoided in its entirety and the entire debt would be made an unsecured claim and paid *pro rata* with the other allowed unsecured claims.

4. Upon consideration of the Complaint, it is hereby ORDERED that:

- A. The claims of Defendant, Sperry Marine Federal Credit Union, regarding the second and third deeds of trust liens are allowed as unsecured claims, subject to review and additional objections by the Chapter 13 Trustee.
- B. The second and third deeds of trust liens of Defendant, Sperry Marine Federal Credit Union, are void and shall be of no effect during the pendency of this case under Chapter 13. The claims of Sperry Marine Federal Credit Union, or successor regarding the second and third deeds of trusts lien shall be allowed in full as unsecured claims and shall be treated as such under the Debtors' Chapter 13 Plan. The liens shall be void for all other purposes when and if the Debtors complete their performance as required by the confirmed Chapter 13 Plan.
- C. The Debtors shall not file this judgment with the Clerk of the Court for the Circuit Court of the County of Albemarle until the Debtors have completed their performance as required under the Chapter 13 Plan and has received their order of discharge. Upon receipt of the order of discharge in this case, the Debtors may file a copy of this judgment with the Clerk of the Court for the Circuit Court of the County of Albemarle. The Debtors shall also, at that time, file a copy of the order of discharge with the Clerk of the Court for the Circuit Court of the County of Albemarle.

D. The Clerk shall send a copy of this Order to Debtors' counsel so that he may record the same in accordance with the Local Rules of this Court.

Entered this 12<sup>th</sup> day of May, 2014.

  
U. S. Bankruptcy Judge

I ask for this:

/s/ Marshall M. Slayton  
MARSHALL M. SLAYTON, VSB # 37362  
BOYLE, BAIN, REBACK & SLAYTON  
420 Park Street  
Charlottesville, VA 22902  
Phone: (434) 979-7900  
Counsel for Debtors/Plaintiffs

Seen and agreed:

/s/ Herbert L. Beskin  
Herbert L. Beskin, Chapter 13 Trustee